

COMMISSIONERS APPROVAL

CHILCOTT *ry*

LUND *BL*

THOMPSON *at*

TAYLOR (Clerk & Recorder)

Date.....September 05, 2006

Members Present.....Commissioner Greg Chilcott, Commissioner Betty Lund and Commissioner Alan Thompson

Minutes: Glenda Wiles and Sally Fortino

The Board of County Commissioners met to discuss and sign the non-disclosure agreement with Blackfoot Communications for 9-1-1 services. 9-1-1 Manager Joanna Hamilton and Civil Counsel James McCubbin were present. James stated he reviewed this agreement and had some legal questions, particularly in regard to the 'type' of services, disclosure of information outside Ravalli County (which would be a problem in a mutual aid situation), and the request for attorney fees if litigation does occur. It was agreed Joanna and James would visit with Blackfoot Communications regarding these concerns and report their findings to the Commissioners.

Commissioner Thompson made a motion to adopt the minutes of May 8, July 18, July 25 and July 27, 2006. Commissioner Lund seconded the motion and all voted "aye".

In other business, the Board of County Commissioners met for discussion and approval of the National Children's Alliance Grant. Present at this meeting was Victim Witness Coordinator Val Widmer, Special Investigator Pete Clarkson and Administrative Director Skip Rosenthal. This is the second grant that will pay to staff the personnel for Emma's House. Emma's House is filing for a non-profit status and the County will simply be the umbrella for these monies until they are self-sufficient. The grant is a request for \$50,000.00 and the remainder of the \$116,089.00 will come from other sources and not from any county monies. Skip stated his recommendation is to approve the submission of this grant for the second year of funding. Commissioner Lund made a motion to approve of the National Children's Alliance Grant application for Emma's House. Commissioner Thompson seconded the motion and all voted "aye".

The Board met on a Request for Commission Action on Centennial Lot 17 AP Subdivision. Minutes of that meeting are as follows:

**Ravalli County Board of County Commissioners (BCC)  
Meeting Minutes for September 5, 2006**

**9:00 a.m.**  
**Commissioners Meeting Room, 215 S. 4<sup>th</sup> Street, Hamilton, Montana**

**1. Call to order**

**Commissioner Chilcott** called the meeting to order at 9:25 AM.

**2. BCC and Staff**

**(A) BCC**

Greg Chilcott (Present)  
Alan Thompson (Present)  
Betty Lund (Present)

**(B) Staff**

Tristan Riddell

**3. Public Meeting**

**(A) Centennial Lot 17, AP (K&J Development)**

**(i) Public Comment**

**(a) Leonard Shepherd** presented the proposal to the Commissioners. He noted that he agreed with the staff report except that he would like to have the school contribution come after the sale of the lots rather than due at final plat and the construction of the proposed pedestrian bridge on Willow Creek Road to be done following the sale of 10 lots.

**(b) Staff** stated that to condition the construction of the bridge after the sale of 10 lots is not possible based on enforcement reasons. However, an improvements agreement for the construction of the bridge would be acceptable.

**(ii) Board action on the Subdivision Proposal**

**(a) Board Decision**

Commissioner Lund made a motion to **approve** the variance request from Section 5-4-5(a) and (b)(4) to relieve the developer from improving Willow Creek Road as recommended for approval by the Planning Board.

Commissioner Lund made a motion that the Centennial Lot 17, AP Minor Subdivision be **approved**, based on the findings of fact and conclusions of law in the staff report as amended, and subject to the conditions in the staff report with the following amendments:

1. Condition 5 shall state that an amount of \$250 per lot shall be contributed to the Corvallis School District upon first conveyance of each lot including lease or rent.

Commissioner Thompson seconded the motions and the Commissioners voted 3-0 to **approve** the proposals.

In other business the Board of County Commissioners met to hear a request for Commission Action on the Yerian-Mihara Voluntary Zoning District boundaries. Present for the meeting were Karen Hughes and Jennifer De Groot, Planning Department; John and Pam Horwich; Earl and Karen Phillips.

Karen presented a staff report as attached. She relayed Nedra Taylor (Clerk and Recorder) has determined the petition is ready for the Commissioners' action, as a satisfactory number of signatures has been gathered.

John Horwich spoke in favor of the zoning district. He said the properties in the area are subject to three different, but similar covenants. Lot sizes vary from 5-10 acres. One set of covenants provided for amending by majority; others required unanimity. Some problems had risen, due to the desire of some to divide their acreage. 68-70% of landowners have signed in favor of the zoning district. It is not overly restrictive, simply requiring no further division of lots. Mr. and Mrs. Earl Philips and Pam Horwich stated they were also in favor.

No dissenting voices were present to be heard.

Board deliberation:

Commissioner Thompson said if he lived in the area he would have liked to try to control the appearance of the neighborhood; the earlier the better. He said he found nothing wrong with the action as presented.

Commissioner Lund asked about the people who chose not to be involved. John said they were not part of the existing covenant.

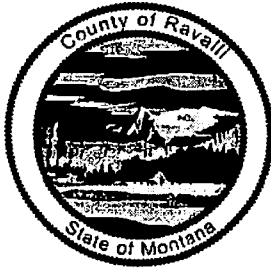
Commissioner Lund said she was 'tickled' with the zoning district.

Commissioner Chilcott noted guest homes, while permitted in the covenant requires subdivision review. He stated those familiar with the process would recognize the requirement, but the language should be clarified for future use.

John said they do not want to change anyone's covenants in this process, just to retain the neighborhood as it is presently.

Pam said there are many other voluntary zoning districts. She asked if the people not presently involved in this one could choose to be involved in the future. Karen said, because the process is lengthy and time- consuming, that doesn't happen often. All owners must be contacted again for signatures. Maybe State law would change to make annexation possible.

Commissioner Thompson made a motion to adopt resolution #1972, creating the boundaries of Yerian-Mihara Voluntary Zoning District. Commissioner Lund seconded the motion, and all voted 'aye'.



## REQUEST FOR COMMISSION ACTION

OG-06-08-990

Meeting: September 5, 2006 @ 10:00 a.m.  
Request: To act on the Yerian-Mihara Voluntary Zoning District

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### I. ACTION REQUESTED

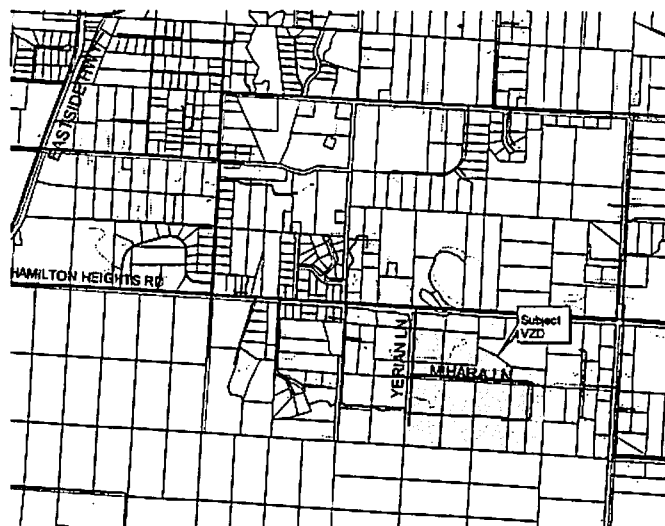
This is a request from 68 percent of the freeholders in the proposed district, organized by John & Pamela Horwich, to create a boundary for the **Yerian-Mihara Voluntary Zoning District**.

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### II. BACKGROUND

The Yerian-Mihara Voluntary Zoning District is comprised of 119.81 acres and is located off Hamilton Heights Road southeast of Corvallis. The number of parcels in the district totals 13. Average parcel size is 9.22 acres. The applicant has submitted signatures of 68 percent of the freeholders in the proposed district.

*Staff recommends adoption of the resolution to create the boundary of the Yerian-Mihara Voluntary Zoning District.*



**Map 1: Location Map**  
(Source Data: Ravalli County Planning Department)

STAFF: Jennifer B. De Groot *JB*  
DATE: September 1, 2006

**Ravalli County Board of County Commissioners**  
**Public Meeting for Creation of the Boundary of the Yerian-Mihara Voluntary Zoning District**  
**Tuesday, September 5, 2006**

**10:00 a.m.**

**Commissioners Meeting Room**  
**3<sup>rd</sup> Floor, 215 S. 4<sup>th</sup> St.**  
**Hamilton, MT 59840**

- 1. Call to Order**
- 2. Staff Presentation**
- 3. Public Comment**
  - A) Persons in favor
  - B) Persons opposed
  - C) Rebuttal (Applicant first, followed by others in order as recognized by the Chairman)
  - D) Close public comment
- 4. Board Deliberation**
  - A) Board discussion and questions on the proposal
  - B) Board action on the proposed resolution
- 5. Close Public Meeting**

COUNTY  
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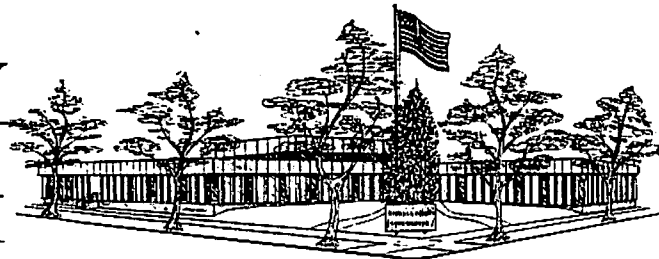
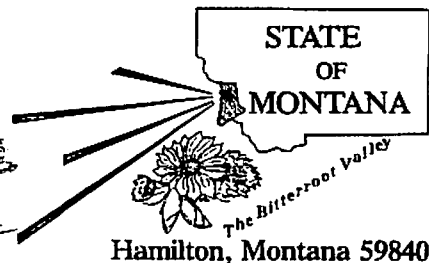


Exhibit I



**EXHIBIT 1**

August 1, 2006

TO: Ravalli County Planning

FROM: Ravalli County Clerk & Recorder

*Nedra A. Taylor*

RE: Proposed Yerian-Mihara Voluntary Zoning District

Attached you will find the proposed Yerian-Mihara voluntary zoning district map and list of landowners within the out-lined district.

Enclosed are signed and notarized petitions for 68% of the free holders within the purposed voluntary zoning district. I have attached the legal descriptions to each signed petition and have also included the legal descriptions of the other land owners in the proposed area.

If you require further assistance, please contact me.

**RECEIVED**

AUG 09 2006  
1C-06-08-1276  
Ravalli County Planning Dept.

## PETITION FOR VOLUNTARY ZONING DISTRICT YERIAN-MIHARA DISTRICT RAVALLI COUNTY, MONTANA

The undersigned owners of property within the proposed district, hereby petition the County Commissioners of Ravalli County, Montana to establish the Yerian-Mihara Voluntary Zoning District, pursuant to the following terms and conditions:

Property Within the District. The following properties shall be within the Yerian-Mihara Voluntary Zoning District:

Township 6 North, Range 20 West, Section 15, Hamilton Heights:  
Block 4, Lots 1-A, 2-A, 3-A, and 4-A, 5, 5-B, 6-A and 7A  
Block 5, Lots 5-B, 6-A, 9-A, 10-A, 11 and 12

Area Within the District. The area within the District is approximately 110.32 acres.

Development Pattern. The following development pattern provisions are proposed for the Yerian-Mihara Voluntary Zoning District:

1. The minimum lot size shall be determined by lot sizes existing on January 1, 2006. No lot shall be further divided or subdivided after January 1, 2006.
2. All lots are restricted to residential and agricultural use only, except as otherwise provided in paragraph 3 below.
3. No more than one single-family dwelling shall be permitted on any lot, provided that this restriction shall not prohibit (a) reasonable accommodations for the temporary housing of guests and family not to exceed 6 months in any 12 month period, whether or not such accommodations are part of or separate from the main residential dwelling, or (b) the conduct of a home occupation as long as the office or facilities for such are contained entirely within the main residential dwelling and as long as the main residential dwelling is used as a dwelling. Nothing in this paragraph shall exempt from county subdivision review any activity that would otherwise be subject to such review.
4. All residences, structures, and buildings shall be setback from property lines at least 25 feet.

Nonconforming Uses and Structures. To avoid undue hardship, nothing in these regulations shall be deemed to require a change in the plans or construction of any building on which actual construction was lawfully begun prior to the effective date of these regulations. A lawful use of land existing on the effective date of these regulations, made no longer permissible by these regulations, may be continued so long as it remains otherwise lawful.



## Variances.

### Procedures for Variance Requests

1. Applications for a variance to the Board of County Commissioners may be submitted by any person by filing an Application for Variance with the Ravalli County Planning Department. Application forms shall be available at the Ravalli County Planning Department. Fees shall be required to be paid by the applicant in the amounts established in a fee schedule adopted by the Ravalli County Commissioners.
2. The Application for Variance must identify the applicant, identify the property at issue, identify the owner of the property and explain the relationship between the applicant and owner (if different), describe the factual background and particulars of the variance requested, set forth the specific reasons for requesting the variance, and explain how the applicant believes the variance criteria set forth herein are satisfied. Applications for variances shall be reviewed by staff for completeness, and shall be returned to the applicant without further processing if determined not to meet the requirements of this section.
3. The Ravalli County Planning Department shall fix a reasonable time for the Board of County Commissioners hearing of the variance request.
4. The Ravalli County Planning Department shall publish two(2) notices, one (1) week apart in a newspaper of general County circulation, the first of which shall appear at least fifteen (15) days prior to the public hearing. The notice shall contain a brief description of the variance request; the location of the property; the date, time and place of the public hearing; and the statement that the application is on file for public inspection at the Planning Department.
5. The Ravalli County Planning Department shall send written notification of the variance request to the property owners according to the following procedures:
  - a. Mailing lists shall include all persons listed in the most current available data in County Records who own the subject property(s) and property in the Yerian-Mihara Voluntary Zoning District.
  - b. The mailing shall be made at least fifteen (15) days prior to the public hearing.
  - c. The notice shall contain a brief description of the nature of the application; the time, place and date of the public hearing; and the phone number and address of the Planning Department.
6. At the hearing any party may appear in person or be represented by an agent or attorney.

### Requirements for Granting a Variance

1. To grant a variance the Board of County Commissioners must make findings that:
  - a. granting the variance will not be contrary to the public interest or injurious to the neighborhood; and
  - b. owing to special conditions, a literal enforcement of the provisions of these regulations will result in unnecessary hardship if the variance is not granted; and
  - c. the spirit of the regulations shall be observed and substantial justice done; and
  - d. the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure; and
  - e. the special conditions and circumstances do not result from the action of the applicant or prior owners of the parcel at issue.
2. Neither the permitted nor nonconforming use of other lands, structures or buildings in the jurisdiction is grounds for the issuance of a variance.
3. "Hardship" refers to circumstances peculiar to the particular property. Financial or economic difficulties or consequences of actions by the property owner are not "hardships" for variance purposes.

Severability. The provisions of these regulations are severable. If any provision or portion thereof is adjudged by a court of competent jurisdiction to be invalid, the decision shall not affect the validity of the remaining provisions, all of which shall remain in full force and effect.

